

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

GEORGIA ANDERSON, et al

PLAINTIFFS

VERSUS

CIVIL ACTION NO. 4:02CV55-P-B

FIRST FAMILY FINANCIAL SERVICES, INC., et al

DEFENDANTS

ORDER

This cause is before the Court on the defendant First Family Financial Services, Inc.'s Motion for Summary Judgment as to Certain Plaintiffs [163-1]. The Court, having reviewed the motions, the responses, the briefs of the parties and the authorities cited, finds as follows, to-wit:

While this case initially involved hundreds of plaintiffs, many of those individuals have been dismissed from this case by virtue of numerous prior orders. The claims of only a few remain to be adjudicated. Defendant Kentucky Finance seeks summary judgment against several of the remaining plaintiffs^{1 2} based on a statute of limitations defense.

¹ The instant motion addresses the claims of plaintiffs Sandra Bell, Willie Ruth Bennett Benjamin, Willie Ruth Bennett, Enell Weatherspoon Brent, Gladys W. Brown, Ray C. Butler, Levetter Mattheney Cain, Betty Campbell, Eddie B. Campbell, Julia Campbell, Larry D. Campbell, Marion Campbell, Abbie Carpenter, Avonda M. Carpenter, Darryl U. Carr, Jake Carter, Jimmie Chambers, Martha Chandler, Palama Coleman, Warren Cook, Maurice Cooper, Harvey Covington, Dorothy Crayton, George Crowder, Alice Crump, Mary Nancy Cunningham, Barbara Curlee, Curtis Davis, Ena Davis, Ray Davis, Carolyn C. Day, Caprecia Stanford Elzy, J.C. Evans, Shirley Everson, Kim Farrar, Earl Felton, Rose M. Fulton, Mary Frances Gibbs, John Granderson, Clarence Green, Dorothy Green, Lois Green, Lynn Green, Mildred Walker Griffen Green, Nelson Green, Etta M. Hayes, Margaret J. Haymon, Tony Hearn, Lynell Henderson, Bessie Herring, Edd Hicks, Earlene Hill, Mattie Hillie, Magdaline K. Hodges, Ruthie Holman, Valerie Holmes, Mary Hoskins, Christine Jackson, Dora James, Mary Jenkins, Tracy Jenkins, Bobby Jennings, Matlean Jennings, Deborah Jennings, Eddie Johnson, George Johnson, Gloria Johnson, James L. Johnson, Clarence Jones, Jr., Roger Jones, Teresa Jones, Timothy Jones, Veronica Jones, Lizzie Jumper, Jametta Keaton, Elizabeth Kennard, Charles Kennedy, Lindell

The parties are in agreement that Mississippi's residual statute of limitations, as codified at Mississippi Code Annotated § 15-1-49, governs the instant action. That statute provides for a three-year limitations period.

Plaintiffs filed their complaint on February 20, 2002 complaining of alleged wrongdoing arising out of the sale of credit insurance in connection with the extension of consumer credit. In order for plaintiffs' claims to have been timely asserted, their claims must have arose no later than February 20, 1999.³ None of the remaining plaintiffs obtained a loan from the defendant within the applicable statutory period.⁴ Furthermore, the Court has considered and rejected the plaintiffs' argument that their claims are timely by virtue of § 15-1-67's tolling mechanism. Plaintiffs are simply incapable of proving the requisite elements of fraudulent concealment—e.g., a subsequent affirmative act of concealment by defendants and due diligence on the part of the plaintiffs. Boone v. Citigroup, Inc., 416 F.3d 382, 390 (5th Cir. 2005); Ross v. Citifinancial, Inc., 344 F.3d 458, 464 (5th Cir. 2003). See also Andrus v. Ellis, 887 So.2d 175, 181 (Miss. 2004). Based on the foregoing facts and the controlling legal authorities, the Court concludes that plaintiffs' claims are time-barred.

King, Lora Ann Miles, Betty Moton, Mary Phillips, Lavonne Smith, Sullivan E. Waton and Thomas Winder.

² The motion also references Patricia Butler, Henry Cooper, Arel Rashad Cox, Bobby Fair, Vivian Edwards Hearvey and Joyce Higgins. Because the Court has addressed the claims of these individuals pursuant to earlier filed motions, the claims of said plaintiffs are not considered herein.

³ The statute of limitations begins to run at the time of purchase in cases involving fraud in the sale of insurance policies. Dunn v. Dent, 153 So. 798, 798-99 (Miss. 1934).

⁴ See Exhibit A to the defendant's Motion for Summary Judgment.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendant First Family Financial Services, Inc.'s Motion for Summary Judgment as to Certain Plaintiffs [163-1] is well-taken and should be, and hereby is, GRANTED. IT IS FURTHER ORDERED that the claims of plaintiffs Sandra Bell, Willie Ruth Bennett Benjamin, Willie Ruth Bennett, Enell Weatherspoon Brent, Gladys W. Brown, Ray C. Butler, Levetter Mattheney Cain, Betty Campbell, Eddie B. Campbell, Julia Campbell, Larry D. Campbell, Marion Campbell, Abbie Carpenter, Avonda M. Carpenter, Darryl U. Carr, Jake Carter, Jimmie Chambers, Martha Chandler, Palama Coleman, Warren Cook, Maurice Cooper, Harvey Covington, Dorothy Crayton, George Crowder, Alice Crump, Mary Nancy Cunningham, Barbara Curlee, Curtis Davis, Ena Davis, Ray Davis, Carolyn C. Day, Caprecia Stanford Elzy, J.C. Evans, Shirley Everson, Kim Farrar, Earl Felton, Rose M. Fulton, Mary Frances Gibbs, John Granderson, Clarence Green, Dorothy Green, Lois Green, Lynn Green, Mildred Walker Griffen Green, Nelson Green, Etta M. Hayes, Margaret J. Haymon, Tony Hearn, Lynell Henderson, Bessie Herring, Edd Hicks, Earlene Hill, Mattie Hillie, Magdaline K. Hodges, Ruthie Holman, Valerie Holmes, Mary Hoskins, Christine Jackson, Dora James, Mary Jenkins, Tracy Jenkins, Bobby Jennings, Matlean Jennings, Deborah Jennings, Eddie Johnson, George Johnson, Gloria Johnson, James L. Johnson, Clarence Jones, Jr., Roger Jones, Teresa Jones, Timothy Jones, Veronica Jones, Lizzie Jumper, Jametta Keaton, Elizabeth Kennard, Charles Kennedy, Lindell King, Lora Ann Miles, Betty Moton, Mary Phillips, Lavonne Smith, Sullivan E. Waton and Thomas Winder should be, and hereby are, DISMISSED WITH PREJUDICE.

SO ORDERED, this the 27th day of January, 2006.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE